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**Commerce & Labor Committee**

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**HB 2094**

**Brief Description:** Creating the taxpayer health care fairness act.

**Sponsors:** Representatives Conway, Appleton, Green, Kagi, Moeller, Sells, Morrell, VanDeWege and Ormsby.

**Brief Summary of Bill**

- Requires certain employers who have employees enrolled in the Medicaid program or the Basic Health Plan to either: (1) pay assessments to cover the state's costs of providing health benefits to these employees; or (2) enter into agreements to reimburse the state's costs of providing health care coverage to these employees.

**Hearing Date:** 2/13/07

**Staff:** Jill Reinmuth (786-7134).

**Background:**

Medical assistance is available to state residents from the Department of Social and Health Services (Department), primarily through the Medicaid program. It is also available through the Basic Health Plan, which is a state-sponsored program administered by the Health Care Authority (Authority) to provide subsidized health insurance coverage to low income Washington residents who are not eligible for Medicare or institutionalized at the time of enrollment. Both the Department and the Authority are required to report annually to the Legislature on the number of Medicaid enrollees and Basic Health Plan enrollees who upon enrollment or recertification reported being employed, or reported being the dependent of someone who was employed, and the total cost to the state for these enrollees. The information is reported by employer for employees having more than fifty employees as enrollees or recipients, or with dependents as enrollees or recipients. Certain aggregated information regarding these enrollees or recipients is also provided.

Reports for calendar year 2005 were submitted to the Legislature on November 15, 2006. According to the Department's report, 244,771 persons enrolled in the Medicaid program or with

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dependents enrolled in the Medicaid program were employed. The state's costs for these persons and their dependents were \$1.264 billion. According to the Authority's report, 42,402 persons enrolled in the Basic Health Plan were employed. The state's costs for these enrollees and their enrolled family members were nearly \$81 million.

### **Summary of Bill:**

Employers with 1000 or more employees must report their labor force to the Department of Social and Health Services (Department) and the Health Care Authority (Authority) (collectively, "the agencies") each quarter, beginning with the quarter ending June 30, 2008. Certain seasonal employers and employers that make payments for health care services for all employees who are enrolled in the Medicaid program or the Basic Health Plan are exempt from this reporting requirement. Employees who have been employed for fewer than 90 days or who were hired through certain job placement services may be omitted from these reports.

The agencies must provide employers with the number of their employees who are enrolled in the Medicaid program or the Basic Health Plan, but not the names of their employees. The agencies also must notify employers who have employees enrolled in the Medicaid program or Basic Health Plan that the employers must either:

- Pay a specified assessment to cover the cost of providing health care to each employee enrolled in the Medicaid program or the Basic Health Plan; or
- For employees enrolled in the Medicaid program, enter into an agreement to reimburse the Department for its contribution to the purchase of health care coverage for each employee; and
- For employees enrolled in the Basic Health Plan, enter into an agreement to reimburse the Authority for the its premium contribution to provide health care coverage for each employee.

The Department may require an employee enrolled in the Medicaid program to enroll in available employer-sponsored coverage when it is cost-effective for the state to do so.

Employers who fail to file required reports are subject to a penalty of up to \$250. Employers who fail to pay assessments or negotiate reimbursement agreements are subject to civil penalties of 5 percent of the assessment for the first month, 10 percent for the second month, and 20 percent for the third month, plus an interest penalty of 1 percent per month.

Employers are prohibited from discriminating against employees on the basis of the employee's enrollment in the Medicaid program or in the Basic Health Plan, or actions related to enrollment. Persons who believe that they have been discriminated against may file complaints with the Human Rights Commission or file civil actions for damages in superior court. If an employer discriminates against an employee within 90 days of notification that the employer has employees enrolled in the Medicaid program or the Basic Health Plan, there is a rebuttable presumption of prohibited discrimination.

Assessments, interest, and civil penalties are deposited in the Health Services Account.

These provisions are to be known as the Taxpayer Health Care Fairness Act.

**Rules Authority:** The bill contains provisions requiring the exercise of rule-making powers by the Health Care Authority and the Department of Social and Health Services.

**Appropriation:** None.

**Fiscal Note:** Requested on February 8, 2007.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.